

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicants: | Algirdas A. Underys |) | Attention: |
| | |) | |
| Serial No.: | 08/991,113 |) | Primary Examiner |
| | |) | Wyszomierski |
| Filing Date: | December 16, 1997 |) | |
| | |) | Group 1742 |
| Title: | Heat Treatment Method and |) | |
| | Apparatus |) | |

11/ Declaration

The Honorable Commissioner
of Patents and Trademarks
Washington, DC 20231

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SEP 27 1999
TC 1700

SECOND SUPPLEMENTAL AMENDMENT

In further response to the Advisory Action of June 28, 1999, please note the following.

We have reviewed with care the comments of the Examiner in paragraph 1. of the August 13, 1999, Advisory Action, and particularly the Examiner's statement that "the original disclosure ... does not convey the essence of the specific term "block"."

We respectfully disagree with the Examiner and in support of our position we submit herewith the "Declaration of Leonard Liuzzi" which is directed to the Examiner's specific basis for maintaining the rejection of claims 4, 15, 16 and 17.

Specifically:

With respect to the matter of disclosure of a "block", Mr. Liuzzi, obviously a man highly skilled and experienced in this art, states, in paragraphs 4 through 6, and particularly

in paragraph 6, that:

" ... the phrase 10" x 10" can only mean a block."

He goes on to say that the phrase cannot mean a rod or a bar; it is far too big in size.

With respect to the matter of disclosure of "maintaining said tool steel workpiece stationary", Mr. Liuzzi states, in paragraph 9, that this disclosure is found in each and every page of the specification when read by a man skilled in the art. We direct the Examiner's attention, as but one example, to his factual reasoning set out in paragraph 9. f:

" ... the time curves already formulated for two inch thick workpieces in existing furnaces can be used ..." (emphasis mine) can only refer to stationary workpieces since the already formulated time curves can refer only to time curves in existing stationary treatment furnaces."

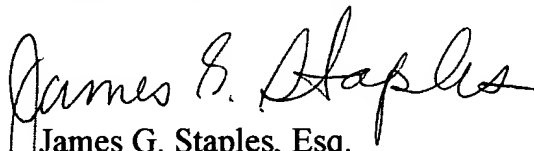
We represent to the Examiner that Mr. Liuzzi is a man with over 40 years intimate participation in this art, a large portion of that period while in high executive positions as is apparent from paragraph 1. of his declaration. When his opinion, taken with the opinion of Mr. Brada (who represents over ten years of specialized education and similar experience), are considered on a reasonable man basis we submit that it must be concluded that the disclosure matters of concern to the Examiner have been resolved in conformity with applicant's position, and hence the 35 U.S.C. 112 rejection has been overcome.

Since we believe that this submission places the application in condition for issuance of a formal notice of allowance, and since we further assume that this submission would be

considered as supplemental to, and effective from, the date of our August 10, 1999, submission which was within the three month period for response, we do not believe an extension fee is required. However, as a precaution we will have our Washington representative stop by the Examiner's desk on September 27 with a check for one month extension, a refund of which is hereby requested in the event said fee, upon consideration by the Patent Office and assuming the instant submission places the application in condition for formal allowance.

In view of the foregoing the application is now in condition for allowance and a formal notice of allowance is respectfully requested.

Respectfully submitted,


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